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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.			LEE, BENJAMIN C	
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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/806,658

Applicant(s)

GIRVIN ET AL.

Examiner

Benjamin C. Lee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/19/06</u> . | 6) <input type="checkbox"/> Other: _____ |

Response To Amendment

Claim Status

1. Claims 1-34 are pending.

Claim Rejections - 35 USC § 102

2. Claims 1-3, 5-6, 8, 17-19, 21-22 and 24 are rejected under 35 USC § 102(e) as being anticipated by Mosher, Jr. et al. (US 2003/0173408A1).

1) Regarding claim 1:

Mosher, Jr. et al. discloses various features including the claimed: a non-reusable (Abstract, lines 12-15) identification apparatus (Figs. 4, 9) comprising: an attachment (93-95), for fastening the identification apparatus to a user (Abstract, lines 1-3); an identification device (92), for providing identification information ([002]-[003]); and a disabling device (inside 92 or as part of the connected circuit), for permanently disabling the identification device after the apparatus is first removed from the user ([0057], lines 1-2; [0064], especially lines 30-46 regarding the permanent disabling features including physical circuit disconnection or destruction, as well as antenna detuning, and disabling via logical input; and Abstract, line 15 in conjunction with line 9 of [0070] and lines 24-30 of [0077] which specifies that such disabling can include erasing stored information) .

2) Regarding claim 2, Mosher, Jr. et al. met all of the claimed subject matter as in claim 1, including: the claimed wherein the attachment further comprises: a band of material for attaching the identification apparatus to a body part portion of a user (91 in Fig. 4).

3) Regarding claim 3, Mosher, Jr. et al. met all of the claimed subject matter as in claim 2, including: the claimed wherein the attachment further comprises: a band of material having a

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strip of adhesive on at least one end thereof, the adhesive being used to bond to an opposite end of the band when fastened to the body part of the user (fastener having conductive or non-conductive adhesive according to Fig. 4 and lines 22-32 of [0064] and lines 21-22 of [0051]; Fig. 36 and corresponding disclosure).

4) Regarding claim 5, Mosher, Jr. et al. met all of the claimed subject matter as in claim 1, including the claimed wherein the identification device further comprises: a strip of material carrying the identification information in printed form (160 in Fig. 22).

5) Regarding claim 6, Mosher, Jr. et al. met all of the claimed subject matter as in claim 1, including the claimed wherein the identification device further comprises: a transponder circuit (RFID; 92) arranged to receive a wireless signal, and in response thereto, to emit a wireless signal representative of the identification information.

6) Regarding claim 8, Mosher, Jr. et al. met all of the claimed subject matter as in claim 6, including:

--the claimed wherein the disabling device further comprises: a device for causing disablement of the transponder circuit upon removal of the apparatus from the user (lines 32-37 of [0064]).

7) Regarding amended claim 17, the claimed "method for operating a non-reusable identification apparatus comprising: attaching the identification apparatus to a user; providing identification information as part of the identification apparatus at least when initially attached to the user; and permanently preventing the apparatus from providing the identification information ever again, once the apparatus is first removed from the user" is met by the consideration of claim 1 by Mosher, Jr. et al., and the "erases"/"erased", "rupture" and

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“destroy”/“destroying”/“destroyed” features of Abstract, [0063], [0064], [0070], [0077], [0078], [0098] upon removal that results in tampering.

8) Regarding claim 18, Mosher, Jr. et al. met all of the claimed subject matter as in claim 17, including the claimed wherein the attaching step further comprises: attaching a band of material to a body part portion of a user (see consideration of claim 2 or Fig. 4).

9) Regarding claim 19, Mosher, Jr. et al. met all of the claimed subject matter as in claim 18, including:

--the claimed wherein the attaching step further comprises: attaching the band of material using a strip of adhesive formed on at least one end thereof, such that the adhesive bonds to an opposite end of the band when fastened to the body part of the user (consideration of claim 3).

10) Regarding claim 21, Mosher, Jr. et al. met all of the claimed subject matter as in claim 17, plus the consideration of claim 5.

11) Regarding claim 22, Mosher, Jr. et al. met all of the claimed subject matter as in claim 17, plus the consideration of claim 6.

12) Regarding claim 24, Mosher, Jr. et al. met all of the claimed subject matter as in claim 17, plus the consideration of claim 8.

13) Regarding claim 33, Mosher, Jr. et al. met all of the claimed subject matter as in claim 1, plus the consideration of claims 6 and 17, wherein the disabling device causes the electronic circuitry to permanently cease to operate is met by the disabling device rupturing/destroying the transponder circuit including its electronic circuitry (RFID) to permanently cease to operate as a result of it being ruptured/destroyed.

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14) Regarding claim 34, Mosher, Jr. et al. met all of the claimed subject matter as in claim 17, plus the consideration of claims 6 and 17, including the claimed causing all electronic circuitry in the identification apparatus to cease functioning ([0063] in which tampering will rupture/destroy the entire circuit 92).

Claim Rejections - 35 USC § 103

3. Claims 4 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mosher, Jr. et al. (US 2003/0173408A1) in view of Peterson et al. (US pat. #5,448,846).

1) Regarding claim 4, Mosher, Jr. et al. met all of the claimed subject matter as in claim 1, including:

a) the claimed wherein the attachment further comprises: a band of material having hole bonded in one end thereof and a mating part on another end thereof, the mating part arranged to pass through the hole and lock into a mating hole when attached to the body part of the user (Fig. 4); except:

b) specifying the claimed said mating part is a barbed peg.

However, Peterson et al. teaches a wristband locking fastener using such known barbed peg (Figs. 1-6).

In view of the two teachings, it would have been obvious to one of ordinary skill in the art at the time of the claimed invention to use a known barbed peg type fastener as taught by Peterson et al. as the fastener of choice in Mosher, Jr. et al. in order to provide a secured locking fastener as intended.

2) Regarding claim 20, Mosher, Jr. et al. met all of the claimed subject matter as in claim 18, plus the consideration of claim 4 in view of Peterson et al.

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4. Claims 7, 9-16, 23 and 25-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mosher, Jr. et al. (US 2003/0173408A1) in view of Gustafson (US pat. #6,050,622).

1) Regarding claim 7, Mosher, Jr. et al. met all of the claimed subject matter as in claim 3, including:

a) the claimed wherein at least a portion of the identification device is located adjacent the adhesive material when the identification device is attached to the user, such that when the band is removed from the user by separating the adhesive bond, the identification device is in turn is disabled (Fig. 4 and [0064]), whereby identification device disablement by destruction through use of differential substrate stiffness via use of embedded fibers is also taught ([0063]);

while:

b) Gustafson teaches a tamper-resistant identification tag wherein at least a portion of the identification device is located adjacent the adhesive material when the identification device is attached to the user, such that when the band is removed from the user by separating the adhesive bond, the identification device is in turn at least partially destroyed by use of differential gluing (col. 4, lines 18-59).

It would have been obvious to one of ordinary skill in the art at the time of the claimed invention that disablement of the identification device via at least partial destruction thereof in Mosher, Jr. et al. can also be implemented by use of differential gluing as taught by Gustafson.

2) Regarding claim 9, Mosher, Jr. et al. met all of the claimed subject matter as in claim 8, plus the consideration of claim 7 in view of Gustafson, whereby:

--the claimed wherein the disabling device further comprises: a device for causing a break in electrical continuity of the components of the transponder circuit is met by tearing

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(breaking in electrical continuity) of the circuit components including the transponder circuit due to separation of the differentially glued band end portions.

3) Regarding claim 10, Mosher, Jr. et al. and Gustafson render obvious all of the claimed subject matter as in claim 9, including:

--the claimed wherein the identification device further comprises: an electrically conductive loop used as an antenna (Figs. 4a-4c of Gustafson).

It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to use the tamper sensing conductive loop of Mosher, Jr. et al. as part of the antenna as taught by Gustafson when the antenna is of the loop antenna type so as to reduce the number of required circuit components thus achieving simplification.

4) Regarding claim 11, Mosher, Jr. et al. and Gustafson render obvious all of the claimed subject matter as in claim 10, including:

--the claimed wherein the disabling device serves to disconnect the transponder circuit from the antenna upon first removal of the apparatus from the user ([0064] of Mosher, Jr. et al. and Figs. 4a-4c of Gustafson).

5) Regarding claim 12, Mosher, Jr. et al. and Gustafson render obvious all of the claimed subject matter as in claim 10, including:

--the claimed wherein the disabling device serves to destroy at least a portion of the antenna (Fig. 4c and col. 5, lines 52-58 of Gustafson).

6) Regarding claim 13, Mosher, Jr. et al. and Gustafson render obvious all of the claimed subject matter as in claim 10, including:

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--the claimed wherein the attachment further comprises a band of material which is fastened around a body part of a user, and an electrically conductive wire loop is disposed in the band of material (Fig. 4 of Mosher, Jr. et al. and Figs. 1 and 4a-4c of Gustafson).

7) Regarding claim 14, Mosher, Jr. et al. and Gustafson render obvious all of the claimed subject matter as in claim 13, including:

--the claimed wherein the disabling device causes a break in the wire loop when the band of material is broken (Fig. 4 of Mosher, Jr. et al. and Figs. 1 and 4a-4c of Gustafson and their corresponding disclosure).

8) Regarding claim 15, Mosher, Jr. et al. and Gustafson render obvious all of the claimed subject matter as in claim 14, including:

--the claimed wherein the band of material has one or more holes formed along a length thereof and the electrically conductive wire loop encircles the holes (Fig. 4 of Mosher, Jr. et al.).

9) Regarding claim 16, Mosher, Jr. et al. met all of the claimed subject matter as in claim 6, plus the consideration of claim 7 in view of Gustafson, including:

--the claimed wherein the attachment further comprises a band having a strip of adhesive material on at least one end thereof, the adhesive material being used to bond to an opposite end of the band when fastened around a portion of a body part of the user; and wherein at least a portion of the transponder circuit is located adjacent the adhesive material, such that when the band is removed from the user by separating the adhesive bond, the transponder circuit is at least in part destroyed (Fig. 4c of Gustafson).

10) Regarding claim 23, Mosher, Jr. et al. met all of the claimed subject matter as in claim 18, plus the consideration of claim 7 in view of Gustafson.

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11) Regarding claim 25, Mosher, Jr. et al. met all of the claimed subject matter as in claim 24, plus the consideration of claim 9 in view of Gustafson.

12) Regarding claim 26, Mosher, Jr. et al. met all of the claimed subject matter as in claim 22, plus the consideration of claim 10 in view of Gustafson.

13) Regarding claim 27, Mosher, Jr. et al. and Gustafson render obvious all of the claimed subject matter as in claim 26, plus the consideration of claim 11.

14) Regarding claim 28, Mosher, Jr. et al. and Gustafson render obvious all of the claimed subject matter as in claim 26, plus the consideration of claim 12.

15) Regarding claim 29, Mosher, Jr. et al. and Gustafson render obvious all of the claimed subject matter as in claim 26, plus the consideration of claim 13.

16) Regarding claim 30, Mosher, Jr. et al. and Gustafson render obvious all of the claimed subject matter as in claim 29, plus the consideration of claim 14.

17) Regarding claim 31, Mosher, Jr. et al. and Gustafson render obvious all of the claimed subject matter as in claim 29, plus the consideration of claim 15.

18) Regarding claim 32, Mosher, Jr. et al. met all of the claimed subject matter as in claim 22, plus the consideration of claim 16 in view of Gustafson.

Response to Arguments

5. Applicant's arguments filed 1/19/06 have been fully considered but they are not persuasive.

Regarding the rejections using Mosher, Applicant argues that the reference does not proceed to teach exactly how to arrange a device that permanently disables circuitry after the apparatus is first removed from the user. Firstly, where any such detail is not claimed, then

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there's no requirement of the prior art or the rejection to address it. The validity of the prior art is not in question. Secondly, Mosher discloses that response to tampering, antenna and circuit connections are severed, a logical state can be changed to disable the device, information can be erased, a portion of or the whole circuit can be destroyed by the help of fibers to facilitate the mechanical destruction, thereby meeting the claimed limitation. It is noted that Mosher discloses embodiments in which the device can be re-used, as well as embodiment that is destroyed upon tampering, and it is the latter that is being relied upon in rejection the claims in question, such as indicated in the rejection of claims 1, 17 and 34. See above rejection for detail.

In conclusion, applicant's arguments are not deemed persuasive in overcoming the prior art rejection, and the rejection is maintained.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 6888502 (col. 10, lines 34-59); US20030174049 ([0028])

--Similar destroy-upon-tampering wristband devices.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

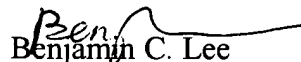
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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin C. Lee whose telephone number is (571) 272-2963. The examiner can normally be reached on Mon -Thu 11:00Am-7:30Pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Wu can be reached on (571) 272-2964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Benjamin C. Lee
Primary Examiner
Art Unit 2612

B.L.